

REMARKS

The application has been carefully reviewed in light of the Office Action dated October 6, 2004. Claims 1 and 8 have been amended. Claims 1-14 remain pending in this case.

Rejection under 35 U.S.C. § 103

Claims 1-14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Zhang (U.S. Patent No. 5,991,737). Applicants respectfully traverse the rejection and request reconsideration.

Amended claim 1 recites a method for facilitating a transaction with a person listening to transmitted audible content while operating an electronic request device, comprising in part detecting an electronic request transmitted from said request device, transmission initiated by said person listening to content represented by an audio signal received at a location of said person from a remote source, said request indicating said person's desire to obtain a deliverable related to said content, matching said content to said deliverable to identify said deliverable in response to said request, and monitoring the transmission between the request device and the remote source to ensure complete transmission of the electronic request.

Amended claim 8 recites system for conducting a transaction between a person and a remote service comprising in part a remote service at a location remote from said person having a transmission monitor for monitoring the transmission from the transmitter to ensure complete transmission of the request from the request initiator to the remote service.

Claim 4 recites a method for conducting a transaction with a person listening to transmitted audible content while operating an electronic request device comprising in part obtaining profile information from a person including an identification element, said profile information stored at a host site remote from said person.

Chen discloses a method and system for enabling consumers to respond to publicly broadcast information. According to Chen, a method and system is provided for

enabling consumers to respond to publicly broadcast information, including a content identification processor and an order processor. The content identification processor is configured to identify the content of publicly broadcast information in response to receipt of data specifying the publicly broadcast information. The order processor receives from a consumer an order comprising data specifying information publicly broadcast over a non-interactive medium, communicates the data to the content identification processor, receives an identification of the content of the publicly broadcast information from the content identification processor, and causes action desired by the consumer to be initiated based on the content of the publicly broadcast information.

See, Chen column 1, lines 31-44.

The Office Action fails to establish a *prima facie* case of obviousness of the subject matter of claims 1-14. Courts have generally recognized that a showing of a *prima facie* case of obviousness necessitates three requirements: (i) some suggestion or motivation, either in the references themselves or in the knowledge of a person of ordinary skill in art, to modify the reference or combine the references teachings; (ii) a reasonable expectation of success; and (iii) the prior art references must teach or suggest all claim limitations. See e.g., In re Dembiczak, 175 F.3d 994 (Fed. Cir. 1999); In re Rouffet, 149 F.3d 1350, 1355 (Fed. Cir. 1998); Pro-Mold & Tool Co. v. Great Lakes Plastics, Inc., 75 F.3d 1568, 1573 (Fed. Cir. 1996). The references used in the Office Action fail at least the third prong of obviousness in that the combination of cited references fails to teach or suggest all claim limitations.

In the present case, Chen fails to teach or suggest the subject matter of claims 1, 4 and 8. Specifically, Chen fails to teach or suggest, monitoring the transmission between the request device and the remote source to ensure complete transmission of the electronic request as recited in claim 1. Chen also fails to teach or suggest, obtaining profile information from a person including an identification element, said profile information stored at a host site remote from said person as recited in claim 4. Chen also fails to teach or suggest, a transmission monitor for monitoring the transmission from the transmitter to ensure complete transmission of the request from the request initiator to the remote service as recited in claim 8.

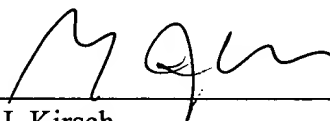
The device of Chen merely monitors scheduling of media-related events in major geographic locations, and does not monitor a transmission between the request device and the remote source to ensure complete transmission of the electronic request. See Chen column 3, lines 47-50. Chen does not teach or suggest the monitoring step of claim 1, nor the transmission monitor of claim 8. Likewise, Chen merely allows a consumer to identify broadcast information of interest by entering station information into a separate communication owned by the consumer. See Chen column 3, lines 21-31. Chen does not teach or suggest the step of obtaining profile information as recited in claim 4. Accordingly, the rejection of claims 1, 4 and 8 should be withdrawn.

Claims 2 and 3 depend from claim 1, and claims 5-7 depend from claim 4, and claims 9-14 depend from claim 8, and are allowable along with claims 1, 4 and 8 respectively, for at least the reason that they depend from allowable independent claims 1, 4 and 8.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue. A one month extension of time fee is believed due. However, the Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 14-0629.

Respectfully submitted,

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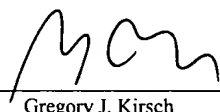


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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: MAIL STOP AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.



Gregory J. Kirsch

18 JAN 2005

Date